

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

TERRY MORROW,

Plaintiff,

v.

**OKLAHOMA BOARD OF COUNTY
COMMISSIONERS et al.,**

Defendants.

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Case No. CIV-24-591-F

REPORT AND RECOMMENDATION

Plaintiff, a prisoner appearing *pro se*, has filed this action under 42 U.S.C. § 1983 alleging various violations of his constitutional rights. United States District Judge Stephen P. Friot has referred the matter to the undersigned magistrate judge for initial proceedings consistent with 28 U.S.C. § 636(b)(1)(B).

On June 12, 2024, the Court ordered Plaintiff to cure deficiencies related to his Application (Motion) for Leave to Proceed In Forma Pauperis no later than July 1, 2024. *See* ECF No. 5. Specifically, Plaintiff's application was missing the required financial information and/or signature of authorized officer of penal institution and a certified copy of plaintiff's trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint, obtained from the appropriate official of each prison at which the prisoner is or was confined. Following correspondence and Motions received from the Plaintiff, Mr. Morrow has been granted two (2) continuances after the initial deadline to cure. Plaintiff's last deadline was

September 9, 2024. With each Order, the Court advised the Plaintiff that his failure to comply with this Court's orders may result in the dismissal of this action without prejudice to re-filing. *See* ECF Nos. 5, 8 and 11. As directed, the Clerk of Court forwarded to the Plaintiff the necessary forms to make application to proceed in forma pauperis. *See* ECF Nos. 8 and 11 and Staff Notes dated 7/17/2024 and 8/23/24.

A review of the Court file indicates that as of this date, the Plaintiff has failed to cure the deficiencies, show good cause for his failure to do so, or request an extension of time to comply with the Court's orders. In fact, Plaintiff has not responded to the Court's most recent Order in any way. Further, there is no indication from the docket that Plaintiff did not receive the Court's previous Order which was mailed to Plaintiff's address of record. *See* ECF No. 11 and Staff Notes dated 8/23/2024. LCvR 5.4.(a).

The undersigned finds that Plaintiff's failure to comply with the Court's Order, in light of the Court's right and responsibility to manage its cases, warrants dismissal of this action without prejudice. *See Nasious v. Two Unknown B.I.C.E. Agents at Arapahoe County Justice Center*, 492 F.3d 1158, 1161 n.2, 1162 (10th Cir. 2007) (*sua sponte* dismissal for failure to comply with Court's orders permitted under federal rules, and court need not follow any particular procedures in dismissing actions without prejudice for failure to comply).

RECOMMENDATION

Based on the foregoing findings, it is recommended that this action be **DISMISSED without prejudice** for Plaintiff's failure to comply with this Court's orders.

Plaintiff is advised of his right to file an objection to this Report and Recommendation with the Clerk of Court by **October 10, 2024**, in accordance with 28 U.S.C. § 636 and Fed. R. Civ. P. 72. Plaintiff is further advised that any failure to make timely objection to this Report and Recommendation waives the right to appellate review of the factual and legal issues addressed herein. *Casanova v. Ulibarri*, 595 F.3d 1120, 1123 (10th Cir. 2010).

This Report and Recommendation terminates the referral to the undersigned magistrate judge in the captioned matter.

ENTERED on September 23, 2024.



SHON T. ERWIN
UNITED STATES MAGISTRATE JUDGE